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JUL 17 2002

In re Application of  
Foster et al.  
Application No. 10/046,334  
Filed: October 26, 2001  
Attorney Docket No. 030048033US

OFFICE OF PETITIONS  
DECISION GRANTING  
PETITION

This is a decision on the petition filed May 9, 2002, to establish that pages 2, 4, 6, 7, 10, 12, 13, 15, 18, and 20 were part of the originally filed application.

On October 26, 2001, the application was filed.

On March 1, 2002, the Office of Initial Patent Examination mailed a Notice stating that the application had been accorded a filing date of October 26, 2001, and advising applicants that pages 2, 4, 6, 7, 10, 12, 13, 15, 18, and 20 of the specification appeared to have been omitted.

In response, the present petition was filed alleging that the missing pages were deposited on October 26, 2001. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "Spec., Claims, Abstract (29 pages)" on October 26, 2001.<sup>1</sup> Petitioner has also submitted a copy of the missing documentation.

Upon review of the record, the missing pages, deposited on October 26, 2001, have not been located. However, the evidence is convincing that the application papers deposited on October 26, 2001, included the missing pages, and that the pages were subsequently misplaced in the PTO.

In view of the above, the petition is **granted**. The copy of pages 2, 4, 6, 7, 10, 12, 13, 15, 18, and 20 of the specification submitted with the petition will be used for examination purposes.

The petition fee of \$130 will be credited to petitioner's deposit account.

The Notice mailed March 1, 2002, was sent in error and is hereby vacated.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 26, 2001, using the application papers filed on October 26, 2001, and the copy of pages 2, 4, 6, 7, 10, 12, 13, 15, 18, and 20 of the specification filed on May 9, 2002.

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<sup>1</sup> Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.



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Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy